

Itw

Docket No.: 60188-660

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Customer Number: 20277
Toshikazu ONISHI : Confirmation Number: 5515
Serial No.: 10/665,469 : Group Art Unit:
Filed: September 22, 2003 : Examiner:
For: SEMICONDUCTOR LASER DEVICE AND METHOD FOR FABRICATING THE
SAME

**PETITION AND RESPONSE TO NOTICE
OF INCOMPLETE NONPROVISIONAL APPLICATION**

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Incomplete Nonprovisional Application dated July 21, 2004, Applicant respectfully petitions the Commissioner to enter Pages 18-32 of the specification (description and claims) in the above-identified application. Submitted herewith are the following documents for filing in the above-referenced application:

1. Pages 18 -33 as filed with the above-referenced application on September 22, 2003,
2. A copy of Applicant's date stamped PTO receipt card dated September 22, 2003 which indicates a total of 30 pages of specification, 3 pages of claims, 1 page of abstract and 8 pages of drawings were submitted, and
3. Petition Fee of \$130.00.

09/21/2004 EFLORES 00000173 500417 10665469

01 FC:1460 130.00 DA

Pages 18 – 32 of the specification were deposited with the Patent and Trademark Office with the nonprovisional application papers on September 22, 2003, as evidenced by the attached copy of the stamped postcard. As shown on the postcard, a total of 34 pages of specification and claims were submitted. Pages 18-32 were included in the 34 pages.

As Pages 18-32 were submitted in the original filing of the instant application, it is believed that the petition fee should be refunded to Applicant's Deposit Account.

Applicant respectfully submits copies of the above documentation in order to address the Notice of Incomplete Application, and request that the official filing date of September 22, 2003 for the above-identified U.S. patent application be recognized (not the date of receipt of the documents submitted herewith).

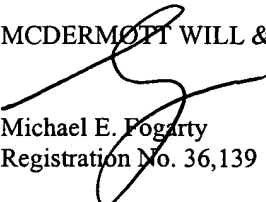
Applicant respectfully requests that the petition fee be waived in view of the U.S. Patent and Trademark Office's issuing the Notice in error, as is apparent from the evidence presented herein. If necessary to preserve the original filing date of September 22 2003, Applicant hereby authorizes the charging of the petition fee in an effort to preserve the original filing date.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time and petition fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

It is requested that the official filing receipt now be issued.

Respectfully submitted,

MCDERMOTT WILL & EMERY LLP


Michael E. Fogarty
Registration No. 36,139

600 13th Street, N.W.
Washington, DC 20005-3096
202.756.8000 MEF:llm
Facsimile: 202.756.8087
Date: September 20, 2004



Applicant: Toshikazu ONISHI

Docket No. 60188-660

Title: SEMICONDUCTOR LASER DEVICE AND METHOD FOR FABRICATING THE SAME Serial No. NOT YET ASSIGNED

Date Sent: 9/22/2003 ☒ Hand Carried ☐ Fax ☐ Electronic ☐ Cert of Mailing ☐ Express Mail No.

☒ Transmittal Letter

☐ New Patent App ☒ Utility ☐ Design ☐ Cont. ☐ C/P ☐ Div. ☐ PCT ☐ RCE ☐ Prov

☐ Other: pages of Specification ☐ Letter submitting pages of drawings

30 pages of Specification

3 pages of Claims

1 pages of Abstract

8 pages of Formal/Informal Drawings

☐ Small Entity ☒ Large Entity

☒ Declaration/Power of Attorney

☒ Recordation of Assignment

☒ Information Disclosure Statement

1 Form PTO 1449

3 copies of cited references

☐ Preliminary Amendment

☐ Response to Missing Parts Notice

☐ Resp. to Notice to Correct App. Papers

☒ Certified Copy of Priority Doc.

☒ Claim for Convention Priority

☐ Req. for Approval of Drawing Amendments

☐ Req. for Oral Hearing

☐ Not of Appeal ☐ Appeal Brief ☐ Reply Brief

☐ Rule 312 Amendment/Letter

☐ Req. for Acknowledgement of Cited Art

☐ Issue Fee

☐ Publication Fee

☐ Req. for Certificate of Correction

☐ Maintenance Fee for years after grant

☐ Fee Address Indication Form

☐ Terminal Disclaimer

☐ Petition to Commissioner

☐ Status Inquiry

☒ Other Associate Power of Attorney

17858 U.S. PTO

10/665469





SEP 2 0 2004
OFFICE
UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/665,469	09/22/2003	Toshikazu Onishi	60188-660

Jack Q. Lever, Jr.
McDERMOTT, WILL & EMERY
600 Thirteenth Street, N.W.
Washington, DC 20005-3096

CONFIRMATION NO. 5515

FORMALITIES LETTER



OC000000013281079

Date Mailed: 07/21/2004

NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below and a newly executed oath or declaration covering the items must be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)). Replies should be mailed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(h)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

- The specification does not include at least one claim.
A complete specification as prescribed by 35 U.S.C. 112 is required.

The following item(s) appear to have been **omitted** from the application:

- Page(s) 18-32 of the specification (description and claims).

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date

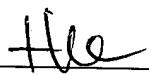
of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted item(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*


Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE